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U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/501,692	Richard Smith- carliss	END041182PCTUS

035811  
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CONFIRMATION NO. 4419  
 \*OC000000016431342\*  
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Date Mailed: 07/26/2005

### FILING OF 35 U.S.C. 111 APPLICATION

The application papers filed are not clearly identified as a submission to enter the national stage under 35 U.S.C. 371 or contain conflicting or no instructions as to whether the papers are filed under 35 U.S.C. 371 or 35 U.S.C. 111. In accordance with 37 C.F.R. 1.495(g), such papers are accepted for filing under 35 U.S.C. 111. Accordingly, the papers do not satisfy the requirements for treatments as the national stage of a PCT 1.16, 37 C.F.R. 1.17 and 37 C.F.R. 1.18.

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In re Application of :  
SMITH-CARLISS et al. :  
Application No.: 10/501,692 : DECISION ON PETITION  
Filing Date: 15 July 2004 : UNDER 37 CFR 1.137(b)  
Attorney's Docket No.: END04182PCTUS :  
For: ANALGESIC AND METHODS OF USE :

This is a decision on applicant's "Petition to Revive under 37 CFR 1.137(b)" filed 15 July 2004. The petition fee has been submitted.

**BACKGROUND**

On 29 August 2002, applicant filed international application PCT/US02/27936, which claimed a priority date of 29 August 2001. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 01 March 2004.

On 15 July 2004, applicant filed, *inter alia*: a transmittal letter; the basic filing fee; an application containing a specification; and a petition to revive an international application PCT/US02/27936 for purposes of copendency under 37 CFR 1.137(b).

**DISCUSSION**

International application PCT/US02/27936 became abandoned as to the United States of America at midnight on 01 March 2004 for failure to pay the basic national fee.

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply unless it has been previously submitted, (2) the fee set forth in 37 CFR 1.17(m), (3) a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional" and (4) a terminal disclaimer, in an application filed before 08 June 1995.

With regard to Item (1), the proper response was the filing of the continuing application. International application PCT/US02/27936 is being revived for purposes of continuity only and since continuity has been established by this decision reviving the international application, the international application is again abandoned in favor of the

present continuing application number 10/007,722.

As to item (2), the required petition fee has been paid.

With regard to Item (3), applicant's statement that "the entire delay in filing the required reply from the due date for the reply until the filing of this petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

As to item (4), as the international application was filed after 08 June 1995, a terminal disclaimer is not required.

### CONCLUSION

For the reasons discussed above, applicant's petition to revive international application PCT/US02/27936 is GRANTED.

International application PCT/US02/27936 is being revived for purposes of continuity only and since continuity has been established by this decision reviving the international application, the international application is again abandoned.

The application will then be forwarded to the Office of Initial Patent Examination for further processing under 35 U.S.C. 111(a).



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